

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 SOE-02 AID-05 CEA-01 CIAE-00
COME-00 DODE-00 EB-08 DOE-15 H-02 INR-10 INT-05
L-03 NSAE-00 NSC-05 OMB-01 PM-05 ICA-20 OES-09
SP-02 SS-15 STR-07 TRSE-00 ACDA-12 PA-02 /142 W
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P 112227Z AUG 78
FM AMEMBASSY OTTAWA
TO SECSTATE WASHDC PRIORITY 8360
INFO AMCONSUL CALGARY

UNCLAS SECTION 01 OF 03 OTTAWA 04002

E.O. 11652: N/A
TAGS: ENRG, CA
SUBJECT: CANADIAN RESPONSE TO AMBASSADOR'S DEMARCHE
REGARDING FOOTHILLS' PIPE PROCUREMENT PLAN

REF: A. OTTAWA 3718; B. OTTAWA 3720

PASS DOE FOR BERGOLD AND GOLDMAN; DOE/FERC FOR SMITH
AND ADGER

STATE FOR EUR/CAN AND EB (BOSWORTH)

1. EMBASSY RECEIVED LETTER AUGUST 11 (DATED AUGUST 10)
FROM NORTHERN PIPELINE COMMISSIONER MITCHELL SHARP
RESPONDING TO AMBASSADOR'S JULY 25 DEMARCHE REGARDING
FOOTHILLS' PIPE PROCUREMENT PLAN (REPORTED REF A).
LETTER ATTACHES PAPER REPLYING TO POINTS MADE IN PAPER
AMBASSADOR LEFT WITH SHARP (TRANSMITTED REF B).

2. EMBASSY WILL SEND RECOMMENDATIONS REGARDING NEXT
STEPS IN DEALING WITH PIPE PROCUREMENT ISSUE.

3. TEXT OF LETTER FROM SHARP TO AMBASSADOR: BEGIN
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TEXT: DEAR MR. AMBASSADOR: DURING OUR CONVERSATION ON
JULY 25, YOU LEFT WITH ME A PAPER, DATED JULY 25, ON
THE SUBJECT OF "PIPELINE PROCUREMENT FOR THE NORTHERN
GAS PIPELINE." I GAVE A COPY OF YOUR PAPER TO THE
FOOTHILLS COMPANY AND THEY HAVE NOW PROVIDED COMMENTS
WHICH I ATTACH FOR YOUR INFORMATION. I MIGHT ADD THAT
I FIND THESE COMMENTS TO BE REASONABLE.

THE QUESTIONS RAISED IN PARAGRAPH 5 OF YOUR PAPER HAVE, I THINK, BEEN DEALT WITH. WE HAVE PROVIDED YOU, AT THE EARLIEST POSSIBLE TIME AND PRIOR TO APPROVAL BEING GIVEN TO FOOTHILLS, WITH COPIES OF THE BIDDERS LIST AND OF THE BIDDING DOCUMENT. WITH REGARD TO THESE DOCUMENTS, IT IS OPEN TO INTERESTED PARTIES TO ADDRESS THEMSELVES TO FOOTHILLS IF THEY HAVE QUESTIONS TO RAISE. IF, OF COURSE, THE UNITED STATES GOVERNMENT SHOULD ITSELF HAVE COMMENTS TO MAKE, WE SHALL BE ANXIOUS TO TAKE THEM INTO ACCOUNT, BEARING IN MIND THE NEED TO EXPEDITE THE PROCESS OF PROCUREMENT AND SUBJECT TO THE RELEVANT PROVISIONS OF THE UNITED STATES/CANADA AGREEMENT.

THANK YOU FOR THE ASSURANCES GIVEN IN PARAGRAPH 6 OF YOUR PAPER. I REMAIN SOMEWHAT UNCERTAIN AS TO THE AVAILABILITY OF INFORMATION ON PURCHASING PLANS FOR THE U.S. SECTION BUT I AM GLAD TO NOTE YOUR CONFIDENCE THAT FULLY SATISFACTORY ARRANGEMENTS FOR FORWARDING PROCUREMENT INFORMATION TO CANADA CAN BE MADE AND THAT THE FERC WILL BEGIN FORWARDING THE NECESSARY DOCUMENTS TO THIS AGENCY AS SOON AS THEY BECOME AVAILABLE. THE MAIN POINT I WISH TO MAKE IS THAT WE SHALL LOOK TO THE U.S. AUTHORITIES TO ENSURE THAT ON THE U.S. SECTIONS OF THE LINE, CANADIAN COMPANIES WILL HAVE PROCUREMENT UNCLASSIFIED

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OPPORTUNITIES EQUAL TO THOSE AVAILABLE TO U.S. COMPANIES IN CANADA.

AS FOR THE CONSULTATIONS YOU SUGGEST UNDER PARAGRAPH 7 OF THE U.S./CANADA AGREEMENT, I SAID TO SECRETARY SCHLESINGER DURING MY VISIT ON JULY 28 THAT WE WOULD BE GLAD TO ENTER INTO CONSULTATIONS AS SOON AS THE UNITED STATES GOVERNMENT HAS APPOINTED THE FEDERAL INSPECTOR FOR THE PROJECT. I GATHER THAT SUCH AN APPOINTMENT IS LIKELY TO BE MADE IN THE NEAR FUTURE. YOURS SINCERELY, MITCHELL SHARP. END TEXT.

4. TEXT OF ATTACHED PAPER: BEGIN TEXT: 1. THE ENTIRE PAPER (AND POINT (1) IN PARTICULAR) MAKES NO REFERENCE TO THE OBJECTIVES OF THE CANADA/U.S. AGREEMENT, WHICH ARE STATED BELOW.

- "THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA,
- "DESIRING TO ADVANCE THE NATIONAL AND ENERGY INTERESTS AND TO MAXIMIZE RELATED INDUSTRIAL BENEFITS

- OF EACH COUNTRY, THROUGH THE CONSTRUCTION AND
- OPERATION OF A PIPELINE SYSTEM TO PROVIDE FOR THE
- TRANSPORTATION OF NATURAL GAS FROM ALASKA AND FROM
- NORTHERN CANADA..."

WHENEVER PARAGRAPH 7 OF THE AGREEMENT IS READ WITHOUT REFERENCE TO THE ABOVE, WE WOULD SUGGEST THAT IT IS BEING USED OUT OF CONTEXT WITH THE SPIRIT OF THE AGREEMENT AS CLEARLY ENUNCIATED IN THE ABOVE PORTION OF THE OBJECTIVES OF THE AGREEMENT.

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2. POINT (2) OF THE PAPER.

THERE IS NOTHING IN OUR LETTER TO THE AGENCY DATED JULY 10, 1978, THAT SUGGESTS THAT POTENTIAL U.S. AND CANADIAN SUPPLIERS OF PIPE WHO COULD BE COMPETITIVE WILL BE ARBITRARILY EXCLUDED FROM BIDDING.

3. POINT (4) OF THE PAPER.

- SECTION (A)
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POINT 1 OF MR. BLAIR'S LETTER OF JULY 11, 1978, STATES:

- "WE INTEND TO INVITE BIDS FOR OUR TOTAL MAINLINE
- PIPE REQUIREMENTS FOR 36", 42" 48" AND 56" PIPE
- FROM ALL APPROVED NORTH AMERICAN SUPPLIERS."

MR BLAIR GOES ON IN HIS JULY 11, 1978 LETTER TO STATE
IN POINT 2:

- "ONLY STELCO AND IPSCO ARE DEEMED TO BE APPROVED
- SUPPLIERS OF 56" PIPE."

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FOOTHILLS HAS ASSESSED THE TYPE OF MILLS AVAILABLE TO
MANUFACTURE PIPE IN THE U.S. (I.E. STRAIGHT SEAM U AND
O), AND THE NATURE OF THE PLATE MILLS REQUIRED TO FEED
THESE U.S. PIPE-MAKING FACILITIES. THE CONCLUSION
DRAWN IS THAT THE ADDITIONAL INVESTMENT WHICH WOULD BE
REQUIRED BY U.S. PIPE PRODUCERS TO MANUFACTURE PIPE
LARGER THAN 48", TO FOOTHILLS SPECIFICATIONS, WOULD
RESULT IN UNCOMPETITIVE PRICES BEING OFFERED TO THE
AHGPLP. IN ADDITION, LEAD TIMES REQUIRED TO PUT SUCH
NEW FACILITIES IN PLACE WOULD EXTEND WELL INTO OR BEYOND
THE REQUIRED DELIVERY SCHEDULE FOR 56" PIPE.

ANY APPARENT LIMITATIONS IN MR. BLAIR'S JULY 11TH
LETTER ON PARTICIPATION BY POTENTIAL OFFSHORE PIPE
SUPPLIERS ARE IN KEEPING WITH THE OBJECTIVES OF THE
CANADA/U.S. AGREEMENT -

- "DESIRING ... TO MAXIMIZE RELATED INDUSTRIAL
- BENEFITS OF EACH COUNTRY..."

THIS PARTICULARLY APPLIES TO THE BROAD DISCRETION LEFT
TO FOOTHILLS CONCERNING WHETHER TO CONSIDER SUBMISSIONS
BY POTENTIAL OFFSHORE SUPPLIERS.
BID DOCUMENTS SHOULD ONLY BE MADE AVAILABLE TO
COMPANIES WHO HAVE A REAL POTENTIAL TO SUPPLY. THE
PROCESS OF BID PREPARATION AND EVALUATION IS TIME
CONSUMING AND EXPENSIVE. IT SHOULD ONLY BE UNDERTAKEN
WHERE NECESSARY.

BECOMING AN "APPROVED NORTH AMERICAN SUPPLIER" RESULTS
FROM SATISFACTORILY MEETING THE TECHNICAL AND COMMERCIAL
CRITERIA SET OUT BY FOOTHILLS. DETAILED DISCUSSIONS IN
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THIS REGARD ARE PLANNED TO COMMENCE WITH INTERESTED
POTENTIAL U.S. PIPE SUPPLIERS DURING THE FIRST WEEK IN
AUGUST.

THE CRITERIA TO BE USED IN THE "TECHNICAL AND COMMERCIAL EVALUATIONS" OF BIDS, FROM ALL POTENTIAL SUPPLIERS, INCLUDING THOSE IN THE U.S., ARE OUTLINED IN THE LINE PIPE BIDDING DOCUMENT CURRENTLY BEING PREPARED BY FOOTHILLS.

- SECTION B

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THE WORDS "NATIONAL PROCURING" IN MR. BLAIR'S JULY 11TH LETTER REFER TO FOOTHILLS' COMMITMENT TO PURCHASE IN ACCORDANCE WITH THE OBJECTIVES OF THE CANADA/U.S. AGREEMENT -

- "DESIRING ... TO MAXIMIZE RELATED INDUSTRIAL
- BENEFITS OF EACH COUNTRY ..."

AND SECTION 10 OF SCHEDULE III IN BILL C-25 WHERE THE TERMS AND CONDITIONS OF CANADIAN PARTICIPATION AND CONTENT ARE OUTLINED.

FURTHERMORE, AS MR. BLAIR STATED IN HIS JULY 11TH LETTER, FOOTHILLS AND ITS SPONSOR COMPANIES HAVE A NEED TO ASSURE CONTINUITY OF FUTURE SUPPLY FROM THE CANADIAN PIPE VENDORS, OVER AND ABOVE THIS PROJECT. THIS CAN ONLY BE ACCOMPLISHED IF CANADIAN FIRMS PARTICIPATE IN THE SUPPLY PROCESS FOR THIS PROJECT.

THE WORDS "SUBSIDIZING POLICIES" IN MR. BLAIR'S JULY 11TH LETTER, REFER TO FOOTHILLS' COMMITMENT TO PROCURE IN

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SUCH A MANNER AS "TO ENSURE TO (THEIR OWN AND) THE MINISTER'S SATISFACTION THAT PROPOSED CONTRACTS FOR THE SUPPLY OF GOODS OR SERVICES FROM OUTSIDE CANADA WILL NOT INVOLVE UNFAIR TRADE PRACTICES." REFER TO BILL C-25, SCHEDULE III, SECTION 10, SUB-SECTION B (II).

- SECTION (C)

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BASED ON EXPERIENCE, FOOTHILLS BELIEVES THE PRICE PER TON OF 56" PIPE WILL BE VERY CLOSE TO THAT FOR 48" PIPE PRODUCED TO SIMILAR SPECIFICATIONS. FOOTHILLS IS THEREFORE CONFIDENT THAT BY RECEIVING BIDS FROM BOTH CANADIAN AND U.S. PRODUCERS FOR AT LEAST ITS 48" PIPE REQUIREMENTS, IT WILL BE ABLE TO DETERMINE FOR ITSELF AND SUBSEQUENTLY DEMONSTRATE TO REQUISITE AUTHORITIES IN BOTH COUNTRIES, THAT THE CONTRACTS ULTIMATELY ENTERED INTO CONTAIN PRICES WHICH ARE "GENERALLY COMPETITIVE", IN KEEPING WITH THE SPIRIT OF THE CANADA/U.S. AGREEMENT. END TEXT.
ENDERS

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